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EXAMINER

NGUYEN, LUONG TRUNG

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/747,741	<b>Applicant(s)</b> UENO ET AL.	
	<b>Examiner</b> LUONG T. NGUYEN	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 16-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/24/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 16-19 filed on 2/08/2008 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

2. Claim 19 is objected to because of the following informalities:

Claim 19 (line 7), "wherein wherein said reset switch" should be changed to --wherein said reset switch--.

Appropriate correction is required.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 16 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,116,365. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons.

Claim 16 of the instant application is anticipated by patent claim 1 in that claim 1 of the patent contains all the limitations of claim 16 of the instant application. Claim 16 of the instant application therefore is not patentably distinct from the earlier patent claim and as such is unpatentable for obvious-type double patenting.

5. Claim 16 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 10 of U.S. Patent No. 7,116,365. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons.

Claim 16 of the instant application is anticipated by patent claim 10 in that claim 10 of the patent contains all the limitations of claim 16 of the instant application. Claim 16 of the instant application therefore is not patentably distinct from the earlier patent claim and as such is unpatentable for obvious-type double patenting.

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6. Claim 19 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,116,365 in view of Chi et al. (U.S. Patent No. 5,608,243).

Regarding instant application claim 19, the patent claim 1 discloses all the limitations of claim 19 of the instant application, except for the limitation “wherein negative voltage is applied to a gate of said reset switch.” However, Chi et al. discloses an active pixel sensor, in which a negative reset voltage  $V_{reset}$  is applied to reset gate 104 (figures 2A-2B, column 3, lines 35-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the instant application claim 19 by the teaching of Chi et al. in order to obtain a solid state imaging device which provides a wide dynamic range that is adjustable.

7. Claim 19 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 10 of U.S. Patent No. 7,116,365 in view of Chi et al. (U.S. Patent No. 5,608,243).

Regarding instant application claim 19, the patent claim 10 discloses all the limitations of claim 19 of the instant application, except for the limitation “wherein negative voltage is applied to a gate of said reset switch.” However, Chi et al. discloses an active pixel sensor, in which a negative reset voltage  $V_{reset}$  is applied to reset gate 104 (figures 2A-2B, column 3, lines 35-45). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the instant application claim 19 by the teaching of Chi et al. in order to obtain a solid state imaging device which provides a wide dynamic range that is adjustable.

***Specification***

8. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The specification fails to provide proper antecedent basis for the newly amended limitation “a depletion type transistor” as amended in claim 16 (lines 8-9), and claim 19 (line 8). It should be noted that the specification only discloses “depression type transistor” is used for reset switch 14, specification, page 8, lines 7-13.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gowda et al. (US 5,898,168) in view of Miwada (US 5,287,393).

Regarding claim 16, Gowda et al. discloses a solid state imaging element (imager 20, figures 3A-3B) comprising:

a pixel (cell 30; figures 3A-3B; column 4, lines 9+) to which has a photoelectric transfer element (photodiode 26, figure 3B, column 4, lines 9-20), a transfer switch (FET 22, figure 3B, column 4, lines 9-36) for transferring charge stored in said photoelectric transfer element, a

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charge store part (circuit node 25, figure 3B, column 4, lines 37-62) for storing charge transferred by said transfer switch, a reset switch (reset transistor 21, figure 3B, column 4, lines 20-62) for resetting said charge store part, and an amplifying element (FET 23, figure 3B, column 4, lines 9-36) for outputting signal in accordance with the potential of said charge store part to vertical signal lines (column buses 15j, figures 3A-3B, column 4, lines 9-62).

Gowda et al. fails to specifically disclose wherein said reset switch is configured of a depletion type transistor. However, Miwada teaches an image sensor, in which reset transistor 16a is implemented by a depletion type field effect transistor (figure 3, column 4, lines 15-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Gowda et al. by the teaching of Miwada in order to reduce a drop in the supply voltage to the drain of the reset transistor.

Regarding claim 17, Gowda et al. discloses wherein said transfer switch is an enhancement type transistor (FET 22, figure 3B, column 4, lines 9-36).

Regarding claim 18, Gowda et al. discloses wherein said amplifier is an enhancement type transistor (FET 23, figure 3B, column 4, lines 9-36).

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pain et al. (US 5,886,659) in view of Miwada et al. (US 5,287,393).

Regarding claim 19, Pain et al. discloses a solid state imaging element (figures 1A-1C, 3A, 4; column 3, lines 55+; column 6, lines 10+) comprising:

a pixel (pixel in pixel array 410; figure 4; column 6, lines 50+) to which has a photoelectric transfer element (figures 2A, 3A; photodiode 210, photogate 310; column 6, lines 14-33), a transfer switch (transfer gate electrode 320, figure 3A; column 6, lines 25+) for transferring charge stored in said photoelectric transfer element, a charge store part (floating diffusion 330, figure 3A; column 6, lines 25+) for storing charge transferred by said transfer switch, a reset switch (reset electrode 340; figure 3A; column 9, lines 25+) for resetting said charge store part, and an amplifying element (transistor 360, figure 3A; column 3; lines 55-60) for outputting signal in accordance with the potential of said charge store part to vertical signal lines (figures 3A, 4; column 6; lines 24+);

wherein negative voltage is applied to the gate of said reset switch (column 6, lines 40-43).

Pain et al. fails to specifically disclose wherein said reset switch is a depletion type transistor. However, Miwada teaches an image sensor, in which reset transistor 16a is implemented by a depletion type field effect transistor (figure 3, column 4, lines 15-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Pain et al. by the teaching of Miwada in order to reduce a drop in the supply voltage to the drain of the reset transistor.



***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUONG T. NGUYEN whose telephone number is (571) 272-7315. The examiner can normally be reached on 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID L. OMETZ can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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2622

/L.T.N/  
06/06/08